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A-475-059
Sunset Review
Public Document

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Second Expedited Sunset
Review of the Antidumping Duty Finding on Pressure Sensitive Plastic Tape
from Italy; Final Results

Summary

We have analyzed the substantive response of the interested party in the second sunset review of the antidumping duty finding covering pressure sensitive plastic tape ("PSPT") from Italy. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this second sunset review for which we received a substantive response from the domestic interested party:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail

Margins from investigation

History of the Finding

On May 31, 1977, the US Department of Treasury ("Treasury") published its final affirmative

determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of PSPT from Italy. See *Less than Fair Value Determination-Pressure Sensitive Plastic Tape Measuring Over One and Three-Eighths Inches in Width and Not Exceeding Four Millimeters in Thickness from Italy*, 42 FR 27705 (May 31, 1977). In the LTFV determination, Treasury found a range of margins for the following companies: Boston - 0% to 17%, Comet - 2% to 19%, and Manuli - 1% to 26%. Id. at 42 FR 27706. Treasury published its antidumping finding in the *Federal Register*. See *Treasury Decision 77-258, Antidumping-Pressure Sensitive Plastic Tape Measuring Over One and Three-Eighths Inches in Width and Not Exceeding Four Millimeters in Thickness from Italy*, 42 FR 56110 (October 21, 1977). Treasury determined that Plausturopa should be excluded from the investigation. Treasury did not establish an “all others” rate, however, the International Trade Commission (the “Commission”) identified the weighted-average margins for Boston, Comet, and Manuli at about 10 percent. See *Pressure Sensitive Plastic Tape From Italy; Determination of Injury or Likelihood Thereof*; 42 FR 44853 (September 7, 1977). In the 1980's the Department of Commerce assumed the responsibility of administering antidumping investigations from Treasury. Since the antidumping finding by Treasury, the Department of Commerce (“Department”) has conducted numerous administrative reviews with respect to imports of PSPT from Italy: *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 48 FR 35686 (August 5, 1983); *Pressure Sensitive Plastic Tape from Italy; Final Results of Antidumping Duty Administrative Review*; 51 FR 43955 (December 5, 1986); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty*

Administrative Review and Revocation in Part; 53 FR 16444 (May 9, 1988);¹ *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 54 FR 13091 (May 30, 1989); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review and Revocation in Part*; 55 FR 6031 (February 21, 1990)²; *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 55 FR 49670 (November 30, 1990); *Pressure Sensitive Plastic Tape from Italy; Final Results of Antidumping Duty Administrative Review*; 56 FR 56630 (November 6, 1991); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 58 FR 51616 (October 4, 1993); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Administrative Review*; 59 FR 36162 (April 13, 1994); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 60 FR 55362 (October 31, 1995); *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review*; 63 FR 50882 (September 23, 1998).

The Department initiated the first sunset review on PSPT on September 1, 1998, pursuant to Section 751(c) of the Act. *See Initiation of Five-Year Reviews*, 63 FR 46410 (September 1, 1998). As a result of that review, the Department found that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. *See Final Results of Expedited Sunset Review: Pressure Sensitive Plastic Tape from Italy*, 64 FR 853 (January 6, 1999). In that determination, the Department also reported to the ITC, as the likely dumping margin for all Italian manufacturer or exporters, a rate of 10 percent. There have been no administrative reviews since the

¹ The Department revoked the finding with respect to Autodesivitalia S.p.A.

² The Department revoked the finding with respect to Boston S.p.A.

completion of the first sunset review in 1999. However, on March 25, 2004, the Department published a notice of final results of changed circumstances review of the antidumping duty order on PSPT from Italy in which the Department determined that Tyco Adhesives Italia S.p.A. (Tyco) is a successor-in-interest company to Manuli Tapes S.p.A. (Manuli).³ *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Pressure Sensitive Plastic Tape from Italy*, 69 FR 15297 (March 25, 2004).

The finding remains in effect for all manufacturers and exporters of the subject merchandise from Italy except for Plausturopa, excluded from the investigation, and Autodesivitalia, S.p.A, and Boston S.p.A., companies for whom the Department subsequently revoked the order.

Background:

On January 2, 2004, the Department published the notice of initiation of the second sunset review of the antidumping duty finding on PSPT from Italy. *See Initiation of Sunset Reviews*, 69 FR 50 (January 2, 2004).⁴ The Department received a Notice of Intent to Participate on behalf of a domestic interested party, 3M Company ("3M"), within the deadline specified in section 351.218(d)(1)(i) of the *Department's Regulations (Sunset Regulations)*. The domestic interested party claimed interested party status under section 771(9)(C) of the Tariff Act of 1930, as amended (the "Act"), as a U.S. producer of PSPT.

We received a complete substantive response from the domestic interested party on February

³ On December 31, 1999, Manuli Autoadesivi S.p.A. changed its name to Manuli Tapes Sp.A., although there is no formal record with the Department.

⁴ Although the initiation notice states that the sunset review is "of the antidumping duty orders," the Department hereby corrects the inadvertent misstatement to reference the original "finding" on pressure sensitive plastic tape from Italy, as originally stated in the Treasury Decision. *See Treasury Decision 77-258, Antidumping-Pressure Sensitive Plastic Tape Measuring Over One and Three-Eighths Inches in Width and Not Exceeding Four Millimeters in Thickness from Italy*, 42 FR 56110 (October 21, 1977).

2, 2004, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In its substantive response, 3M states that it has been an active participant in these proceedings since its inception and remains committed to full participation.

We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this finding.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty finding would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty finding. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the finding were revoked. Below we address the comments of the interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

3M asserts that revocation of the antidumping duty finding of PSPT from Italy would result in the continuation of dumping, which has been persistent since 1977, despite the existence of the finding. *See Substantive Response of the Domestic Interested Party*, February 2, 2004, at 2.

3M claims that although some Italian producers have sporadically had zero or *de minimis* margins in

the review periods, the subject merchandise has been dumped at margins greater than *de minimis* throughout the history of the order, ranging from 1.19 percent to 12.66. *Id.* Although 3M does not provide import volumes in its substantive response, it states that import volumes have declined. *Id.* at 3. As a result, 3M maintains that revocation of the finding would result in continuation of dumping.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin at section II.A.2.* In addition, the Department indicated that normally it will determine that revocation of an antidumping finding is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the finding, (b) imports of the subject merchandise ceased after the issuance of the finding, or (c) dumping was eliminated after the issuance of the finding and import volumes for the subject merchandise declined significantly. *See Sunset Policy Bulletin at section II.A.3.*

In this review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.281(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation. Section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review.

In accordance with the Sunset Policy Bulletin, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where dumping continued at any level above *de minimis* after the issuance of the order. The Department has conducted a number of reviews since issuance of the finding. In those reviews, the Department found that dumping has continued. Furthermore, the Department made an affirmative likelihood determination in its first sunset review of this finding. No party has challenged that determination. The finding, therefore, continues to exist and we continue to collect and assess dumping duties on entries of subject merchandise. Therefore, given that dumping at levels above *de minimis* have continued over the life of the finding, the Department determines that dumping would likely continue or recur if the finding were revoked.

In its comments, 3M asserts that the Department should also find likelihood on the basis of declining imports. However, using statistics provided by the Commission, the Department finds that imports have fluctuated since the implementation of the order. Since 1998, we have seen a sporadic increase and a sporadic decrease in the value and volume of imports. Compared to 1998 numbers, the figures for volume and value almost doubled in 2003. Therefore the Department does not agree with 3M's argument that we should find likelihood on the basis of import volumes. However, since dumping margins have continued over the life of the order, the Department determines that dumping is likely to continue or recur if the finding were revoked.

2. Magnitude of the Margin Likely to Prevail:

Interested Party Comments

3M argues that the 10 percent figure reported to the Commission in the first sunset review is an acceptable approximation of the likely dumping margin and asks that the Department continue to use

the figure for the likely dumping margins in this review. *See Substantive Response of the Domestic Interested Party at p. 3.*

Department's Position

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the company-specific margin from the investigation for each company. For companies not specifically investigated or for companies that did not begin shipping until after the finding was issued, the Department normally will provide a margin based on the all others rate from the investigation. The Department clarified that for sunset reviews of antidumping findings, the Department normally will provide the company-specific or all others rate included in the Treasury finding published in the *Federal Register*. Additionally, if no company-specific margin or all others rate is included in the Treasury finding, the Department will normally provide to the Commission the company-specific margin from the first final results of administrative review published in the *Federal Register* by the Department. However, if the first final results do not contain a margin for a particular company, the Department will normally provide the Commission, as the margin for that company, the first “new shipper” rate established by the Department for that finding. *See Section II.B.1 of the Sunset Policy Bulletin.* Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See Sections II.B.2 and 3 of the Sunset Policy Bulletin.*

In section II.B.1. of the *Sunset Policy Bulletin*, the Department discussed the legislative history related to the selection of the magnitude of the margin likely to prevail and clarified the preference for selecting a margin “from the investigation, because that is the only calculated rate that reflects the behavior of exporters without the discipline of an finding or suspension agreement in place.” We note

that in its final affirmative determination of injury, the Commission identified the weighted-average margin found by Treasury in its investigation. *See Pressure Sensitive Plastic Tape From Italy; Determination of Injury or Likelihood Thereof*; 42 FR 44853 (September 7, 1977). Specifically, the Commission reported that the weighted-average margin for Boston, Comet, and Manuli LTFV sales was about 10 percent. The Department believes it is appropriate to again report that figure to the Commission as the magnitude of the margin likely to prevail if the finding were revoked, because it is the only calculated rate that reflects the behavior of exporters without the discipline of a finding in place. As previously discussed, one of the original three investigated firms, Boston, was subsequently revoked.

We note that the antidumping duty finding on PSPT from Italy remains in effect for all manufacturers, producers, and exporters of the subject merchandise, except for Autoadesivitali, S.p.A, Boston S.p.A, and Plausturopa, which were revoked. *See Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review and Revocation in Part*; 53 FR 16444 (May 9, 1988); and *Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review and Revocation in Part*; 55 FR 6031 (February 21, 1990)

Final Results of Reviews

We determine that revocation of the antidumping duty finding on PSPT from Italy would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Italy Manufacturers/Exporters/Producers	Weighted Average Margin (percent)

Comet SARA, S.p.A 10
Manuli Autoadesivi (Manuli) 10 [FN]
All Others 10

[FN] Manuli Autoadesivi became Manuli Tape S.p.A., in December 31, 1999.
Tyco Adhesives Italia S.p.A became a successor-in-interest company to Manuli Tapes S.p.A. See Final Results of Antidumping Duty Changed Circumstances Review: Pressure Sensitive Plastic Tape from Italy, 69 FR 15297 (March 25, 2004).
Recommendation

Based on our analysis of the substantive response received, we recommend adopting all
of the above positions. If these recommendations are accepted, we will publish the final results
of review in the *Federal Register*.

AGREE _____

DISAGREE _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

(Date)